

Report on the

# **Board of Hearing Instrument Dealers**

Montgomery, Alabama



## **Department of Examiners of Public Accounts**

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October 15, 2008

Rep. Howard Sanderford  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Hearing Instrument Dealers** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Hearing Instrument Dealers**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones  
Chief Examiner

Examiner:  
Tony Lindsey



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## **PROFILE**

### **Purpose/Authority**

The Board of Hearing Instrument Dealers, formerly the Board of Hearing Aid Dealers, was created in 1971 to license and regulate dealers and fitters of hearing aids. The board's administrative functions were for a time performed by the Department of Public Health. The board became an independent board on June 1, 1994. The board currently operates under the provisions of the *Code of Alabama 1975*, Sections 34-14-1 through 34-14-33. These functions include examining and licensing qualified applicants and regulating licensed hearing instrument dealers. The board also conducts investigations and hearings based on complaints against licensees.

### **Board Characteristics**

<b>Members and Selection</b>	Eight members  Appointed by the governor from a list of qualified persons submitted by the Alabama Hearing Aid Association, Inc <i>Code of Alabama 1975</i> , §34-14-30(b)
<b>Term</b>	4 years  No member who has served two or more full terms may be reappointed to the board until at least one year after the expiration of the most recent full term of office. <i>Code of Alabama 1975</i> , §34-14-30(c)
<b>Qualifications</b>	<ul style="list-style-type: none"><li>• Five licensees with three years experience, one may be a hearing aid fitter.</li><li>• One physician specializing in diseases of the ear.</li><li>• One audiologist</li><li>• One consumer (cannot vote on disciplinary actions).</li></ul> <i>Code of Alabama 1975</i> , §34-14-30(b)
<b>Racial Representation</b>	No statutory requirement No minority members
<b>Geographical Representation</b>	No statutory requirements
<b>Consumer Representation</b>	One member must be a consumer. Neither the consumer member nor his or her spouse may be a hearing aid fitter or dispenser <i>Code of Alabama 1975</i> , §34-14-30(b)
<b>Compensation</b>	\$25 per day Travel expense reimbursement at state employee rate <i>Code of Alabama 1975</i> , §34-14-30(d)

## Operations

Administrator	Executive Secretary - Jeanne Stanfield - shared by contract with the Board of Examiners for Dietetic/Nutrition Practice. Contract includes employee services, office space, incoming fax line and basic utilities. Annual contract \$24,500.00. <i>Code of Alabama 1975</i> , §34-14-30(e)																																							
Location	400 South Union Street, Suite 445 Montgomery, AL 36130																																							
Type of Licenses – FY 2008	<table><tr><td>Type</td><td>No.</td></tr><tr><td>Fitters</td><td>54</td></tr><tr><td>Dispensers</td><td>79</td></tr><tr><td>Apprentice</td><td>16</td></tr><tr><td>Total</td><td>149</td></tr></table>					Type	No.	Fitters	54	Dispensers	79	Apprentice	16	Total	149																									
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Renewals	Annually on or before January 30. The board does not process renewals on-line. <i>Code of Alabama 1975</i> , §34-14-6(a)																																							
Examinations	<p>Written and Practical Normally, at least 3 times per year</p> <table><tr><td>Year</td><td>Pass</td><td>% Passing</td><td>Fail</td><td>% Failing</td></tr><tr><td>2004*</td><td>9</td><td>90%</td><td>1</td><td>10%</td></tr><tr><td>2005</td><td>12</td><td>70.6%</td><td>5</td><td>29.4%</td></tr><tr><td>2006</td><td>11</td><td>78.6%</td><td>3</td><td>21.4%</td></tr><tr><td>2007</td><td>19</td><td>63.3%</td><td>11</td><td>36.7%</td></tr><tr><td>2008**</td><td>12</td><td>85.7%</td><td>2</td><td>14.3%</td></tr><tr><td>Totals</td><td>63</td><td>74.1%</td><td>22</td><td>25.9%</td></tr></table> <p>* Only 2 examinations. 1 cancelled due to hurricane Ivan. ** Includes January exam results only <i>Code of Alabama 1975</i>, §34-14-4</p>					Year	Pass	% Passing	Fail	% Failing	2004*	9	90%	1	10%	2005	12	70.6%	5	29.4%	2006	11	78.6%	3	21.4%	2007	19	63.3%	11	36.7%	2008**	12	85.7%	2	14.3%	Totals	63	74.1%	22	25.9%
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Reciprocity	Board may issue a certificate of endorsement to an applicant from another state or jurisdiction if the requirements for licensure are equivalent to or more stringent than Alabama’s. <i>Code of Alabama 1975</i> , §34-14-3(c)																																							
Continuing Education	8 hours annually <i>Code of Alabama 1975</i> , §34-14-6(b)																																							
Employees	1 contract employee																																							

<b>Legal Counsel</b>	Ellen Leonard, Assistant Attorney General Attorney General's Office
<b>Subpoena Power</b>	Yes-both records and witnesses <i>Code of Alabama 1975</i> , Section 34-14-11(c)
<b>Internet Presence</b>	None
<b>Attended Board Member Training</b>	3 of the current board members and the executive secretary (attended in August 2006)

### **Financial**

<b>Source of Funds</b>	License fees
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	Remain on deposit in the State Treasury for use by the board.

## **SIGNIFICANT ITEMS**

No new significant items.

## **STATUS OF PRIOR FINDINGS AND SIGNIFICANT ITEMS**

1. **Prior Significant Item - The board is short of funds** - Board members are electing to waive their expenses for attending board meetings (reimbursement for travel and compensation) to reduce expense to the board. The fees that can be charged are set at specific amounts in the board's enabling statutes. The board plans to submit legislation that will allow the restructure of fees.

**Current Status** – According to the executive secretary, legislation was submitted in 2006 (SB 249) (HB 224) to allow the board to restructure the current fees in its statutes. However this process was unsuccessful. The bills passed in both committees but never progressed further.

In the 2007 fiscal year, receipts increased substantially in the categories of exam fees and duplicate license certificate fees. The executive secretary stated that she would not know if the increase would continue until completion of the 2008 fiscal year.

The executive secretary stated that the board would support an amendment to change language in various sections of its current statutes to eliminate specified dollar amounts regarding licensure fees, renewal fees, and all other fees and replace with language to read all fees as prescribed in the rules and regulations 445-x-1.03 (7) Licensure Fees.



The executive secretary stated that this change would allow fees to be specified in rules and regulations and changed when necessary through the rulemaking process.

The executive secretary stated that the fees have been in effect for fourteen years (14 years) since 1994 when the Alabama Board of Hearing Instrument Dealers became an independent agency from the Health Dept.

The executive secretary stated that, “We have tried through Sunset Committee and Legislation to have specified dollar amounts removed from the law in order to adjust fees when absolutely necessary in order to maintain the licensing and regulatory board. When increase cost are passed on to this agency from outside source beyond our control, then there is a need to adjust our fees in order to self-sustain. We also need to include cost of services that cannot be charge due to our statutes.”

**2. Prior Significant Item - Statutes that address administrative fines appear in conflict.**

– The administrative fine against offending licenses in the *Code of Alabama 1975*, section 34-14-9 (b) is set at not more than \$1,000 per violation while the fine is set in the *Code of Alabama 1975*, Section 34-14-9 (c) is set at not more than \$500 per violation. The board plans to submit legislation to resolve this issue.

Section 34-14-9(b) provides that, “The board is hereby authorized to discipline its licensees and apprentices by the adoption and collection of administrative fines, not to exceed \$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter.”

Section 34-14-9 (c) provides that, “Any person registered under this chapter may have his or her permit or license revoked or suspended by the board, be reprimanded by the board, or be administratively fined not more than five hundred dollars (\$500) per violation by the board for any of the following causes:” (A list of 8 causes, including 10 types of unethical conduct, follows)

**Current Status** – The condition remains. The executive secretary stated that the board submitted legislation to resolve this issue in 2006 (SB 249 and HB 224), but the legislation was unsuccessful.

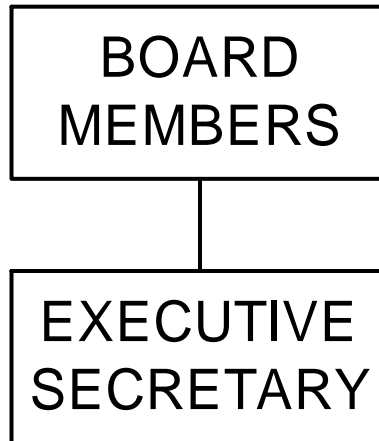
**3. Prior Significant Item - Statutes name the board’s vice chairman as the complaints chairman, a condition that does not allow the board the flexibility in handling complaints that it desires.**

- The *Code of Alabama, 1975*, Section 34-14-30 (c) states “The Vice-Chairman shall serve as the complaints chairman.” According the board’s executive secretary, the board wants to remove this requirement so the board can designate a complaints chairman. The board plans to submit legislation to remove the requirement.

**Current Status** – The condition remains. The executive secretary stated that the board submitted legislation to resolve this issue in 2006 (SB 249 and HB 224), but the legislation was unsuccessful.

## **ORGANIZATION**

### **BOARD OF HEARING INSTRUMENT DEALERS**



## **PERSONNEL**

The board has an interagency agreement with the Board of Examiners for Dietetic/Nutrition Practice to provide administrative services and facilities. The executive secretary for the Board of Dietetic/Nutrition Practice also serves as the executive secretary for the Board of Hearing Instrument Dealers.

## **PERFORMANCE CHARACTERISTICS**

**Number of Licensees per Employee** –149

**Total Expenditures per Licensee (2006-2007 fiscal year)** - \$160.89

**Number of Persons per Licensee in Alabama and Surrounding States**

<i>State</i>	<i>Population (Estimate)*</i>	<i>Number of Licensees</i>	<i>Persons Per Licensee</i>
Alabama	4,627,851	149**	31,059
Florida	18,251,243	900	20,279
Georgia	9,544,750	413	23,110
Mississippi	2,918,785	59	49,470
Tennessee	6,156,719	115	53,536

\* - U.S. Census Bureau July 2007 Estimates

\*\* - Total current licenses

### **Notification to Licensees of Board Decisions to Amend Administrative Rules**

The board complies with the rulemaking procedures provided in the Administrative Procedure Act. The Board has not submitted any proposed rules to the Legislative Reference Service during the review period.

### **Jurisdiction Over Non-Licensees**

The board does not have jurisdiction over non-licensees. Complaints against non-licensees are referred to the Attorney General's Office, Consumer Protection Division.

### **Regulation In Conjunction With**

Audiologists can fit and sell hearing instrument but are exempt from regulation by the Board of Hearing Instrument Dealers. Audiologists are licensed and regulated by the Alabama Board of Speech-Language Pathology and Audiology.

The Federal Food and Drug Administration exercises federal regulatory jurisdiction over hearing instrument dealers and issues regulations applicable to hearing instrument dealers that specify requirements for medical evaluation by a licensed physician, record keeping, required warnings, and penalties.

### **Complaint Resolution**

The board has written procedures for investigating complaints. Complaints must be filed in writing within one year from the date of the action upon which the complaint is based. By law, the vice-chairman of the board serves as the complaints chairman. The complaints chairman investigates complaints. According to the board's executive secretary, some complaints are resolved within two to three weeks or earlier, while others may take longer, depending on the allegations in the complaint.

#### **Resolution of Complaints**

<i>Number of Complaints Filed</i>		<i>Resolved</i>	<i>Unresolved</i>
<b>2007</b>	<b>5</b>	<b>5</b>	<b>0</b>
<b>2006</b>	<b>6</b>	<b>6</b>	<b>0</b>
<b>2005</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>2004</b>	<b>6</b>	<b>6</b>	<b>0</b>

#### **COMPLAINT PROCESS**

<b>Investigations performed by</b>	Executive Secretary forwards complaints to Vice-Chairman who serves as the Complaints Chairman.
<b>Anonymous Complaints</b>	Anonymous complaints are not accepted
<b>Initial Documentation</b>	Written complaints signed by complainant are submitted to the board's executive secretary.

	Complaints are also received from the Attorney General's Office-Consumer Affairs Division.
<b>Disposition of complaint if formal hearing not held</b>	Board determines from investigative report if no probable cause or lack of evidence exists, in which case the complaint is dismissed.
<b>Status of investigating board member during hearings</b>	Any board member involved in the investigation process is required to recuse from the hearing process.

## **SMART BUDGETING**

As a part of the SMART Budgeting system, each agency is required to submit its goals and objectives to the Department of Finance. The goals are to be stated as long-term, multi-year targets which are to be achieved through accomplishment of stated objectives, which are single-year targets. In order to report progress, the goals and objectives must necessarily be designed so that the agency can measure annual progress toward their achievement. The SMART Budgeting system includes an Operations Plan and a Quarterly Performance Report. The performance report presents information on achievement of an agency's annual objectives, and is the SMART Budgeting report that presents performance information. Agencies' Operations Plans and Quarterly Performance Reports are available on the state's SMART Budgeting Internet website at <http://www.smartbudgeting.alabama.gov>

The board is included in the state's SMART Budgeting program. The board provided information in a timely manner to the SMART budgeting analyst, as required, and completed the required forms. The agency's SMART Budgeting reports are included in the appendices. The board's goals and objectives related to performance are shown as follows, along with the examiner's comments.

<b><u>2007 Goals</u> (from 2007 Operations Plan)</b>	<b>COMMENTS.</b>
G1: To provide timely, accurate licensing to eligible applicants. (GP7)	The goal is a statement of work to be done, not how well it is done. No target level of performance. No related objective. Performance relative to this goal not reported. How will you know if the goal is reached?

<b>2007 OBJECTIVES (from 2007 performance report)</b>	<b>PERFORMANCE INDICATOR</b>	<b>REPORTED PERFORMANCE</b>	<b>COMMENTS</b>
<u>Efficiency</u> EFI: Cost per license	The budget divided by number of Licensees,	155	No target level of performance stated. Indicator should be \$ rather than a statement of method. Cost per licensee is determined by expenditure not

			budget.
QU1: Handle all complaints within a standard amount of time (120 days)	Percentage to be handled within time frame.	100	Indicator should be % rather than a statement of method.

<b>2008 Goals (from 2008 operations plan)</b>	<b>Comment</b>
G1: To issue 95% of license applications within 30 days of receipts -- 2008	<p>The goal is appropriate, but a goal for one year (by 2008) is not appropriate. Goals are defined as long-term – 3-5 years out. Objectives are one year targets</p> <p>There is no related objective for this goal.</p>
G2: To regulate persons practicing in the hearing aid profession and to provide adequate information to the to the public. (GP7)	<p>This is a statutory responsibility, not a performance target. Does not address how well the task is to be done.</p> <p>No target level of performance. How will you know when the goal is reached</p> <p>No related objective. Performance relative to this goal will not be reported.</p> <p>There are actually two goals stated.</p>

G3 ; To ensure only qualified practitioners enter the profession. (GP7)	<p>This is a statutory responsibility, not a performance target. Does not address how well the task is to be done.</p> <p>No target level of performance. How will you know when the goal is reached</p> <p>No related objective. Performance relative to this goal will not be reported.</p>
G4 : To resolve complaints satisfactorily within a standard amount of time (120 days) (GP7)	<p>The goal is appropriate</p> <p>The target for the goal is the same as for the objective (120 days).</p> <p>No related objective. Performance relative to this goal will not be reported.</p>
G5: Identify and investigate illegal practice of fitting and selling hearing aids. (GP 7)	<p>This is a statutory responsibility, not a performance target. Does not address how well the task is to be done.</p> <p>No target level of performance. How will you know when the goal is reached</p> <p>No related objective. Performance relative to this goal will not be reported.</p>

<b>2008 OBJECTIVES (from 2008 performance report)</b>	<b>UNIT OF MEASURE</b>	<b>TARGET</b>	<b>COMMENTS</b>
<u>Efficiency</u> O1-Approximately 140 licensees. To maintain current cost of licensee with no more than 5 % increase.	Cost per licensee	140	<p>Unit of measure should be \$, not a statement of method.</p> <p>Performance target appears to be licenses issued, which is not consistent with the cost of licensee objective.</p>

## **FINANCIAL INFORMATION**

### **Schedule of Fees**

<b>Fee</b>	<b>Statutory Authority Code of Alabama 1975</b>	<b>Amount \$</b>
Examination Fee	34-14-3	125.00
Fitter's License	34-14-6	100.00
Dispenser's License	34-14-6	150.00
Duplicate License	34-14-6	25.00
Late Fee	34-14-6	25.00
Reinstatement Fee	34-14-6	100.00
Apprentice Permit	34-14-7	100.00
Directory of Licenses (computer disk or paper)	Public Records Copy Fee	25.00
Administrative Fine	34-14-6	Not to exceed \$1,000 per violation

### **Schedule of Cash Receipts, Disbursements, and Balances**

	<b><u>2007-06</u></b>	<b><u>2006-05</u></b>	<b><u>2004-05</u></b>	<b><u>2003-04</u></b>
<b><u>Receipts</u></b>				
Licenses & Permits	\$ 28,010.00	\$ 23,365.00	\$ 22,380.00	\$ 23,850.00
Donation - Hearing Instrument Association	4,000.00		4,000.00	6,000.00
Total	<u>32,010.00</u>	<u>23,365.00</u>	<u>26,380.00</u>	<u>29,850.00</u>
<b><u>Operating Disbursements</u></b>				
Utilities and Communications	975.62	885.39	906.58	1,067.28
Professional Services	19,831.71	21,630.87	21,638.85	21,647.47
Supplies, Materials and Oper Exp	3,165.61	2,060.34	1,934.85	1,721.36
Total	<u>23,972.94</u>	<u>24,576.60</u>	<u>24,480.28</u>	<u>24,436.11</u>
Excess (Deficiency) of Receipts over Disbursements	8,037.06	(1,211.60)	1,899.72	5,413.89
Cash Balance at Beginning of Year	<u>34,883.89</u>	<u>36,095.49</u>	<u>34,195.77</u>	<u>28,781.88</u>
Cash Balance at End of Year	42,920.95	34,883.89	36,095.49	34,195.77
Reserved for Unpaid Obligations	<u>(5,000.00)</u>	<u>(1,000.00)</u>	<u>(8,600.00)</u>	<u>(950.00)</u>
Unreserved Cash Balance	<u>\$ 37,920.95</u>	<u>\$ 33,883.89</u>	<u>\$ 27,495.49</u>	<u>\$ 33,245.77</u>

**Receipts vs. Operating Disbursements (Chart)**





## **QUESTIONNAIRES**

### **Board Member Questionnaire**

Questionnaires were sent to all five board members. Four responded.

1. What are the most significant issues currently facing the Board of Hearing Instrument Dealers and how is the Board addressing these issues?
  - We are down to 3 regular Proctors; Governor has not appointed the replacements on the Board. Nominated names was sent in Dec. 2007
  - I resigned because all meetings fell on the Fridays. I was on call [REDACTED]
  - Getting Laws passed in legislation; to make changes in laws; change fees in our laws, self sustaining with increase in fees
  - No response
2. What changes to the Board of Hearing Instrument Dealers laws are needed?
  - Act # 2005- 66 Sec.534-14-30 Sec A-B-C  
License Fees – 445-X-1.03, #7 Chapter 445-X-1 Rule  
Continuing Education Changed from 8 hr to 10 hr
  - No comment
  - We need a change in fee schedule. And also a law change that would allow us to have the 800 # to the instrument Board for complaints...This should be put on our Bill of Sales (contracts)
  - No response
3. Is the Board of Hearing Instrument Dealers adequately funded?  
  2   Yes        2   No                             Unknown                     No Opinion
4. Is the Board of Hearing Instrument Dealers is adequately staffed?  
  1   Yes                2   No                             Unknown                1   No Opinion
5. What is the purpose of your fiscal year end balance of unobligated funds?
  - No Response
  - No Response
  - By having year end unobligated funds it allows us the opportunity to start the next year with funds in place to sustain our Board.
  - No Response

**Licensee Questionnaire**

Questionnaires were sent to one hundred (100) licensees. Seventy-four (74) responded.

1. Do you think regulation of your profession by the Alabama Board of Examiners for Hearing Instrument Dealers is necessary to protect public welfare?

65 Yes      8 No                      \_\_\_ Unknown              1 No Opinion

- Emphatically!!
- Proper hearing health care by professionally trained and regulated providers would be seriously jeopardized with the current laws, and rules and regulations of the Board of Hearing Instrument Dealers. Without this oversight, there would be ample opportunity for unscrupulous individuals to enter this field to the detriment of the public.

2. Do you think any of the Alabama Board of Examiners for Hearing Instrument Dealers laws, rules, and policies are an unnecessary restriction on the practice of your profession?

7 Yes      63 No                      3 Unknown              1 No Opinion

- Continuing Education requirements need updating to keep Alabama Consistent with other states
- The laws, rules, regulations and policies of the Board are in no way restricting my practice from providing quality, professional, hearing health to the public. Those laws, rules and regulation are equitable. Other states have copied and emulated the Alabama statues and regulation.

3. Do you think any of the Alabama Board of Examiners for Hearing Instrument Dealers requirements are irrelevant to the competent practice of your profession?

9 Yes      62 No                      3 Unknown              \_\_\_ No Opinion

- We need to update some of our laws & rules regarding hearing instruments.
- While I would conduct my practice ethically and professionally regardless of rules and regulations, having the Board and its laws and policy in place, help ensure ethical and professional conduct by all licensees, apprentices, and those looking for a professional medically related career.

*Licensee Questionnaire*

4. Are you adequately informed by the Board of changes to and interpretations of the Alabama Board of Examiners for Hearing Instrument Dealers positions, policies, rules and laws?

47 Yes      21 No      3 Unknown      3 No Opinion

- But only through the Alabama Society for Hearing Healthcare (ASHHP)
- Don't get notification; is this due to no changes or poor Communication?
- Yes, when they can get changes. It is very hard to get these changes done where we can't get them in front of the House.
- We have an issue that we cannot yet get any changes made in a our profession – such as laws regarding Continuing Education, etc., because [REDACTED] always blocks everything. We need more support for our board & more cooperation for changes.
- Yes, I believe when changes occur or potential are recommended, we are adequately notified.
- The Board members brief the licensees two to three times each year concerning developments and changes to policy. Written communication are received the Executive Secretary on a timely basis.

5. Has the Alabama Board of Examiners for Hearing Instrument Dealers performed your licensing and renewal in a timely manner?

67 Yes      5 No      2 Unknown      \_\_\_\_ No Opinion

- The Alabama Hearing Instrument Dealers Board is fortunate to have an exceptionally well qualified Executive Secretary, and a professional and competent Board.

6. Do you consider mandatory continuing education necessary for competent practice?

73 Yes      1 No      \_\_\_\_ Unknown      \_\_\_\_ No Opinion

- Our current requirement of 8 hrs per year is too low compared to other states
- In fact the requirement is too low!
- By all Means!
- Yes, it helps all of use to be better education and help us keep up with the changes in our field.
- We need a change in this law
- Continuing education is mandatory in this field, as the technological advances in the industry are rapid and comprehensive. The advances in digital sound processing have been enormous.

*Licensee Questionnaire*

7. Has the Alabama Board of Examiners for Hearing Instrument Dealers approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

62 Yes      7 No      4 Unknown      1 No Opinion

- I don't know what is approved
- The Board has provided adequate continuing education hours during meetings and conventions, encompassing several different sources.

8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Alabama Board of Examiners for Hearing Instrument Dealers doing to address the issue(s)?

- Unqualified fitters & dealers with heavy advertising
- It would be helpful to have a newsletter about who is on the Board & what they do on the board
- I am unaware of any issues
- The Board needs to continue making CEUs reasonably accessible
- I think that Board needs the legal backing by the state to discipline and/or revoke the license of those who do not comply/violate the rules. The Board should continue to allow sufficient providers of CEU and not restrict access to them
- We have a "2 Board" system and both are looking to get all the money they can!
- Advertising of aids – needs better policing
- To make sure that the board stays intact ...& gets laws changed to allow fee setting to increase...monies to keep Board Viable
- The governor need to appoint members to the board, without this they can not do their job to the best of their ability
- Increasing the level of professionalism of the dealers / fitters in the state
- - Standardized, Mandatory, Annual Training Requirements.  
- Don't know what the Board actions are...
- Unfair competition by government owned hearing aid dispensing organizations such as colleges & universities, I do not know if this is part of their change
- Raised the passing score of the exam higher so it is making people study, study more and learn more about what we are doing
- ENT's & Audiologist trying to run us out of business
- Cost of Hearing aids – Needs to work with manufacturer in pricing issues
- Making sure all are qualified as a dealer, The dealers board are keeping record of CEU's and testing all who wanting to be a dealer
- People practicing w/o licenses and advertising language
- Trying to get into the 21<sup>th</sup> Century
- Continuing Education should be strictly Educational not sales training

## *Licensee Questionnaire*

- Economic Recovery from Katrina
- We are in competition with colleges that sell Hearing Aids, and the AMA is trying to make laws to make them the gatekeepers of the profession. That constitutes Dictatorship. Our Board does everything to help ward this off. Our senators & Governors & congressmen should step up to the plate. We do a lot for Free for Senior's. They will miss that when we are gone.
- Marketing of audiology services by non-audiologists.
- Temporary License for new staff is not controlled or monitored at all. How can someone in Birmingham monitor someone in mobile?
- Protecting my scope of practice via the state lawmakers.
- Eliminate sales tax collection or hearing aids!
- We need the Governor to go ahead and appoint our other board member where he can get our fee increase and get new laws passes-for more education hours and other thing done.
- Identifying unlicensed sellers of hearing aids.
- We have been unable to address and change anything
- <sup>1)</sup> (continuing Education) The Board has set up approved Training as part of our regular business meeting.  
<sup>2)</sup> (internet and mail-order sale of Hearing Aids) The Board tries to educate the public about the need to see a healthcare provider for their hearing needs.
- Improper Advertising – the Board reviews and levies fines & penalties when necessary
- Non-Audiologist advertising Audiologist services, also ethics violators not being sufficiently Censored – and/or removed from practicing.
- Mail order and Internet Hearing Aids for sale and their availability. As for what the Board is doing. I don't think they are doing anything much. I don't see how much of anything can be done.
- <sup>1)</sup> The Ability to have non-licensed to fit Hearing Aids ie. Radio Shack, Walmart, Internet; Hearing Aids should not become over-the-counter products.  
<sup>2)</sup> Monitor legislation and represent the dealers to ensure the patient's best interest are taken into account
- Not being recognized by many insurance companies as a provider unless, connected to a doctor or audiologist.
- We need more public awareness, so far no public awareness program is in place.
- I don't know
- Competition from the audiologist / Doctors; We need more public promotion/awareness.
- <sup>1)</sup> Private & Government Healthcare do not provide enough benefits to those in need of hearing aids.  
<sup>2)</sup> Not enough education for the public in preventing and/or correcting hearing loss. I don't know what measures, if any, the Board is taking to address these issues.
- Experience leaders. Better Communication.

*Licensee Questionnaire*

- There is a continual, concerted effort on the part of audiologist represented by the American Academy of Audiology, the Academy of Dispensing Audiologists, and the American Speech, Language, Hearing Association to legislate that audiologists should be the gatekeepers for people wanting hearing evaluations and subsequent hearing aid fitting. This would eliminate the Specialist, which would be to the ultimate detriment of the public.
- Some of the testing has nothing to do with our everyday life situations and are irrelevant.

9. Do you think the Alabama Board of Examiners for Hearing Instrument Dealers and its staff are satisfactorily performing their duties?

55 Yes      8 No      4 Unknown      7 No Opinion

- Jenny is great
- Staff - Yes ; Board – No
- Yes, The Board does the best job the can not concern there is only 4 of them. Because the Governor has not appointed the other board member. The Board needs to be able to do more. When every time they tried to do something they are told no.
- I know all members of the Board, and all are professional, conscientious, and perform in an exceptional manner.

10. Has any member of the Alabama Board of Examiners for Hearing Instrument Dealers or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Alabama Board of Examiners for Hearing Instrument Dealers service for you?

   Yes      74 No         Unknown         No Opinion

- No, They all do it free of charges.
- I have never heard of any instance where a request for the money was made in exchange for services or information, or favors.

**Complainant Questionnaire**

Questionnaires were sent to ten (10) people who filed a complaint with the board. Five (5) responded.

1. Was your complaint filed with the Alabama Hearing Instrument Dealers Board by:

  2   Mail      Phone     1   Fax     2   Other      Unknown

- I went to Board in person
- Hand delivered to Jennie Stanfield

2. Was receipt of your complaint promptly acknowledged?

  5   Yes      No      Unknown

If yes, approximately how long after you filed your complaint were you contacted by the Alabama Hearing Instrument Dealers Board?

  2   Immediately     1   Within 10 days     1   Within 20 days  
  1   Within 30 days      More than 30 days      Did not respond  
   Unknown

3. Was the employee who responded to your complaint knowledgeable and courteous?

  2   Knowledgeable      Courteous      Neither     3   Both

4. Did the Alabama Hearing Instrument Dealers Board communicate the results of investigating your complaint to you?

  4   Yes     1   No      Unknown

5. Do you think the Alabama Hearing Instrument Dealers Board did everything it could to resolve your complaint?

  3   Yes      No     2   Unknown

6. Were you satisfied with your dealings with the Alabama Hearing Instrument Dealers Board?

  4   Yes     1   No      Unknown

*Complainant Questionnaire*

- I didn't know of a Board for Hearing Instruments Dealers for at least a year – then through a Hearing Aid Dealer, although I talked to the police and the Attorney General's Office. But, absolutely nothing was done to stop this predator of Senior Citizens.  
{Respondent sent copy of [letter](#) that was sent to the AG's Office}



# APPENDICES

## Smart Performance Reports

Smart Quarterly Performance Report											
Fiscal Year: <b>2007</b>											
Agency: 360 Hearing Instrument Dealers, Alabama Board of											
Org:											
Program: 653 PRO AND OCCU LICENSING AND REG											
Activity:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload/Cost Factor	Performance Indicator	Projecte d	Actua l	Projecte d	Actual	Projecte d	Actual	Projected	Actua l	Projecte d	Actual
WC1: Number of licensees are expected to increase 3%	0	50	6	75	115	15	7	15	8	155	154
WC2: Number of examinations are expected to remain the same	0	0	0	10	7	10	13	10	10	30	30
Staffing	Performance Indicator	Projecte d	Actua l	Projecte d	Actual	Projecte d	Actual	Projected	Actua l	Projecte d	Actual
ST1: Contract staffing with Dietetic/Nutrition No FTE. Interagency Contract	# FTE	0	0	0	0	0	0	0	0	0	0
Efficiency	Performance Indicator	Projecte d	Actua l	Projecte d	Actual	Projecte d	Actual	Projected	Actua l	Projecte d	Actual
EF1: Cost per licensee	Total budget divided by number of licensees	347.0	503	347.0	168	347.0	249	347.005	155	54,000	155
Quality	Performance Indicator	Projecte d	Actua l	Projecte d	Actual	Projecte d	Actual	Projected	Actua l	Projecte d	Actual
QU1: To handle all complaints within a standard amount of time (120 days)	Percentage to be handle within timeframe	100%	100	100%	100%	100%	100%	100%	100%	100%	100%

### Item # Notes

WC1 – Note: 1 <sup>st</sup> qt. actual 18 not 6. Note 3 <sup>rd</sup> qt. actual is 13. Total amount number of new and renewed licensee for FY07 is 154.
EF1 – Actual expenses without encumbrances is \$23,827 divided by number of licensees 154 actual cost per licensee \$155.00.
QU2 – On-line renewals took up more time than usual, not leaving ample time to get 99% applications processed same day.
How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2006-07 affected your agency in meeting its desired accomplishments and services? N/A

Agency:	360 - Hearing Instruments Dealers, Alabama Board of 2008			Program:	653 - PRO AND OCCU LICENSING AND REG					
Organization:	-			Activity:	-					
Mission:	To protect the health, safety and welfare of the public by providing for Hearing Instrument permits, fitter's license and dispenser's license.									
Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projecte d	Actual	Projecte d	Actual	Projecte d	Actual *	Projecte d	Actual *	Projecte d	Actual *
W1: Approximately 140 licensed apprentice, fitters and dispensers.	12	156	110	141	12	0	6	0	140	0
* Actual workload data is not currently available for this quarter.										

#### Item # Notes

WL1- Projected should read 154 not 12.  
12 was projected new licensees

Agency: 360 - Hearing Instruments Dealers, Alabama Board of 2008					Program: 653 - PRO AND OCCU LICENSING AND REG							
Organization: -					Activity: -							
Key Goal:												
Goal 1	To issue 95% of license applications within 30 days of receipt. -- by 2008								Governor's Priority:		4	
Objectives and Quarterly Targets:												
Performance Measures			First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual *	Target	Actual *	Target	Actual *
(O1-Efficiency) Approximately 140 licensees. To maintain current cost of licensee with no more than 5% increase.		Cost per licensee	12	40	110	63	12	0	6	0	140	0

## Item #    Notes

01- Target number is incorrect it should be 100

Actual expense for 1<sup>st</sup> quarter \$6,273 does not include encumbrances paid in fy 07.

01 –Target is correct this should read \$150.00

01 - Target 4<sup>th</sup> quarter should read \$150.00

01 –Target annual should read \$200.00 not 140

## **Statutory Authority**

### CHAPTER 14. HEARING INSTRUMENT DEALERS AND FITTERS.

#### ARTICLE 1. GENERAL PROVISIONS.

##### **§ 34-14-1. Definitions.**

Current through End of 2007 Regular Session.

For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

(1) Apprentice permit. A permit issued while the applicant is in training to become a licensed hearing instrument fitter.

(2) Board. The Board of Hearing Instrument Dealers.

(3) Dealer. A person licensed under this chapter prior to July 3, 1991 to fit and deal in hearing instruments. A dealer's license may remain valid until June 30, 1996 only by continuous renewal.

(4) Dispenser. Any trained person who shall meet all requirements of this chapter for licensure and who may engage in the practice of fitting and dealing in hearing instruments without the direct supervision of any person.

(5) Fitter. A trained, licensed person who shall engage in the practice of fitting and dealing in hearing instruments only under the direct supervision of a hearing instrument dispenser.

(6) Hearing instrument. Any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing excluding assistive listening devices.

(7) License. A license issued by the board under this chapter to a hearing instrument fitter or dispenser.

(8) Practice of fitting and dealing in hearing instruments. The measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations or sale of hearing instruments. The term also includes the making of impressions for earmolds. A licensee or permit holder, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

(9) Sell or Sale. Any transfer of title or of the right to use by lease, bailment or any other contract, excluding wholesale transactions with distributors or dealers.

##### **§ 34-14-2. Licenses or permits -- Required; display; duplicates; corporations, partnerships, etc.**

Current through End of 2007 Regular Session.

(a) No person shall engage in the sale of or practice of fitting hearing instruments or display a sign or in any other way advertise or represent himself as a person who practices the fitting and sale of hearing instruments unless the person holds a license or permit issued by the board as provided in this chapter. The license or permit shall be conspicuously posted in his or her office or place of business. Duplicate licenses or permits may be issued by the board to valid license holders operating more than one office, upon additional payment determined by the board for

each additional office. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

(b) Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a license; provided, that it employs only properly licensed or permitted natural persons and that it shall have at least one licensed Alabama dispenser on its staff to provide direct supervision of any licensed fitters or apprentices employed in the direct sale and fitting of such products. Such corporations, partnerships, trusts, associations or other like organizations shall file annually with the board a list of all licensed hearing instrument dispensers, fitters, and apprentices directly or indirectly employed by them. Such organizations shall also file with the board a statement on a form approved by the board that they submit themselves to the rules and regulations of the board and the applicable provisions of this chapter.

(c) Nothing in this chapter shall apply to physicians licensed to practice medicine or employees under the supervision of a physician licensed to practice medicine, or to the professional corporation or professional association of such physicians.

(d) Nothing in this chapter shall apply to licensed speech pathologists or to licensed audiologists.

### **§ 34-14-3. Licenses -- Issuance; fees; certificates of endorsement.**

Current through End of 2007 Regular Session.

(a) The board shall register each applicant without discrimination who pays an examination fee of one hundred twenty-five dollars (\$125) and who satisfactorily passes an examination as provided in Section 34-14-4, and upon the applicant's payment of the application fee, shall issue to the applicant a license signed by the board. The license shall be effective until January 30 of the year following the year in which issued.

(b) An applicant who fulfills the requirements regarding age, character, education, and health, as set forth in subsection (a) of Section 34-14-4, and who shall provide proof of having met all requirements of certification as a national board certified hearing instrument specialist shall be issued a dispenser's license. All applicants who have current valid Alabama dealer's and fitter's licenses as of July 3, 1991, shall have five years from said date to obtain the requirements for certification. After the expiration of the five-year period, an applicant not providing proof of having met all requirements for certification as a national board certified hearing instrument specialist shall not be issued a dispenser's license but shall instead be issued a fitter's license.

(c) Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this chapter and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this chapter are qualified to dispense and fit hearing instruments, the board may issue certificates of endorsement to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing instruments in such other state or jurisdiction. No such applicants for certificate of endorsement shall be required to submit to or undergo a qualifying examination, etc., other than the payment of fees, pursuant to this section and Section 34-14-6. The holder of a certificate of endorsement shall be registered in the same manner as licensees. The fee for an initial certificate of endorsement shall be the same as the fee for an initial license. Fees, grounds for renewal and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of a license.

#### **§ 34-14-4. Licenses -- Examination of applicants -- Generally.**

Current through End of 2007 Regular Session.

(a) Applicants may obtain a license by successfully passing a qualifying examination; provided, that the applicant:

- (1) Is at least 19 years of age;
- (2) Is of good moral character;
- (3) Has an education equivalent to a four-year course in an accredited high school; and
- (4) Is free of contagious or infectious disease.

(b) An applicant who meets the qualifications of subsection (a) hereof as determined by the board who applies for license by examination shall appear at a time, place and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing instruments. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such a manner that college training is required in order to pass the examination. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

(c) The board shall give examinations at least three times each year.

#### **§ 34-14-5. Licenses -- Examination of applicants -- Scope.**

Current through End of 2007 Regular Session.

The qualifying examination provided in Section 34-14-4 shall be designed to demonstrate the applicant's adequate technical qualifications by:

- (1) Tests of knowledge in areas specified by the board, provided the board is specifically authorized to adopt and administer a national examination; and
- (2) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:
  - a. Pure tone audiometry, including air conduction testing and bone conduction testing,
  - b. Masking when indicated,
  - c. Recording and evaluation of audiograms to determine proper selection and adaptation of a hearing instrument, and
  - d. Taking earmold impressions.

#### **§ 34-14-6. Licenses -- Renewal; continuing education.**

Current through End of 2007 Regular Session.

(a) Each person who engages in the fitting and sale of hearing instruments shall annually, on or before January 30, pay to the board a fee for a renewal of his or her license and shall keep such certificate conspicuously posted in his office or place of business at all times. The fee shall be \$100.00 for a fitter's license and \$150.00 for a dispenser's license. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the board for posting in each location upon payment of the fee. A 30-day grace period shall be allowed after January 30, during which time licenses may be renewed on payment of a late fee of twenty-five dollars (\$25), in addition to the license renewal fee, to the board. After expiration of the grace period, the license is expired and thereafter may be reinstated and renewed within two years. The board may renew such expired certificates upon payment of a one hundred dollar (\$100) reinstatement

fee, in addition to the license renewal fee, to the board. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal; provided, that such renewal application is made within two years from the date of such expiration.

(b) The board shall adopt and maintain a program of continuing education for its licensees not later than October 1, 1991, and after said date no licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met.

#### **§ 34-14-7. Apprentice permit; fitter's license; supervision and training.**

Current through End of 2007 Regular Session.

(a) An applicant who fulfills the requirements regarding age, character, education, and health, as set forth in subsection (a) of Section 34-14-4, may obtain an apprentice permit upon application to the board.

(b) Upon receiving an application as provided under this section and accompanied by a fee of one hundred dollars (\$100), the board shall issue an apprentice permit which shall entitle the applicant to engage in the fitting and sale of hearing instruments for a period of one year provided the apprentice has received 80 hours of academic and practical instruction under the direct supervision and immediate physical observation of the person holding a valid current Alabama hearing instrument dispenser's license. The licensed dispenser shall be totally responsible for the direct supervision and physical observation and training of the applicant thereafter. An apprentice permit may be renewed for an additional year, upon terms and conditions established by the board. An applicant may not be issued a second permit within a five-year period following the expiration date of the initial permit.

(c) An apprentice or applicant who successfully completes the fitter's examination may obtain a fitter's license upon application to the board, and payment of the license fee, which shall entitle the applicant to engage in the sale or fitting of hearing instruments until January 30th of the following year under the direct supervision of a person holding a current Alabama hearing instrument dispenser's license. The licensed dispenser shall be totally responsible for the supervision of all activities of the fitter pertaining to the sale and fitting of hearing instruments, upon payment of a one hundred dollar (\$100) fee.

(d) The dispenser who is responsible for the supervision and training of an apprentice shall not have more than four apprentices under his or her supervision at any time. There shall be no limitations on the number of fitters a dispenser may have under his or her supervision at any given time.

(e) The dispenser responsible for the supervision and training of any apprentice or fitter shall be subject to administrative actions with respect to licensure and to civil liability for all actions of an apprentice or fitter under his or her supervision when the apprentice or fitter engages in unethical, prohibited, fraudulent, deceptive, and misleading conduct involving the fitting and dispensing of hearing instruments.

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#### **§ 34-14-8. Business address; mailing of notices by board.**

(a) A person who holds a license shall notify the board in writing of the regular address of the place or places where he or she engages or intends to engage in the fitting or the sale of hearing instruments.

(b) The board shall keep a record of the place of business of licensees.

(c) Any notice required to be given by the board to a person who holds a license shall be

mailed to him or her at the address of the last place of business of which he or she has notified the board.

**§ 34-14-9. Complaint; hearing; depositions; appeal; administrative fines; grounds for revocation or suspension of license, reprimand, or fines.**

Current through End of 2007 Regular Session.

(a) Any person wishing to make a complaint against a licensee or apprentice under this chapter shall reduce the same to writing and file his or her complaint with the board within one year from the date of the action upon which the complaint is based. If the board investigates and determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this chapter shall be suspended or revoked, it shall make an order fixing a time and place for a hearing and require the licensee complained against to appear and defend against the complaint. The order shall have annexed thereto a copy of the complaint. The order and copy of the complaint shall be served upon the licensee at least 20 days before the date set for hearing, either personally or by registered or certified mail sent to licensee's last known address. Continuances or adjournment of hearing date shall be made if for good cause. At the hearing the licensee complained against may be represented by counsel. The licensee complained against and the board shall have the right to take depositions in advance of hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the board under its seal. Either party taking depositions shall give at least five days written notice to the other party of the time and place of such depositions, and the other party shall have the right to attend, with counsel if desired, and cross-examine. Appeals from suspension or revocation may be made to the circuit court. In the event of an appeal, there shall be a trial de novo and the trial shall be before the court without the intervention of a jury.

(b) The board is hereby authorized to discipline its licensees and apprentices by the adoption and collection of administrative fines, not to exceed \$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter.

(c) Any person registered under this chapter may have his or her permit or license revoked or suspended by the board, be reprimanded by the board, or be administratively fined not more than five hundred dollars (\$500) per violation by the board for any of the following causes:

(1) The conviction of a felony or a misdemeanor involving moral turpitude; the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be prima facie proof of such conviction;

(2) Procuring of license by fraud or deceit;

(3) Unethical conduct, including:

a. The obtaining of any fee or the making of any sale by fraud or misrepresentation;

b. Knowingly employing directly or indirectly any suspended or unregistered person to perform any work covered by this chapter;

c. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceptive or untruthful;

d. Advertising a particular model or type of hearing instrument for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;

e. Representing that the service or advice of a person licensed to practice medicine



will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing instruments when that is not true, or using the words "doctor," "clinic" or similar words, abbreviations or symbols which tend to connect the medical profession when such use is not accurate;

- f. Habitual intemperance;
- g. Gross immorality;
- h. Permitting another's use of a license;
- i. Advertising a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist;
- j. Directly or indirectly giving or offering to give or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing instrument dispenser, fitter, or apprentice, or influencing persons to refrain from dealing in the products of competitors;
- (4) Conducting business while suffering from a contagious or infectious disease;
- (5) Engaging in the fitting and sale of hearing instruments under a false name or alias with fraudulent intent;
- (6) Selling a hearing instrument to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing instruments, except in cases of selling replacement hearing instruments;
- (7) Gross incompetence or negligence in fitting and selling hearing instruments; or
- (8) Violating any provisions of this chapter.

(d) The board may bring an action to enjoin any person, firm, or corporation who, without being licensed or issued a permit by the board, dispenses hearing instruments in this state. The action shall be filed in the county in which such person resides or practices or in the county where the firm or corporation maintains an office or practices. Notwithstanding any other provisions of the law to the contrary, after notice and hearing, the board may issue a cease and desist order prohibiting any person from violating the provisions of this chapter by engaging in the practice of dealing, fitting, selling or dispensing hearing instruments without a license.

**§ 34-14-10. Receipt to be furnished to person supplied with hearing instrument; persons under age 18 to be first examined by physician.**

Current through End of 2007 Regular Session.

(a) Any person who practices the fitting and sale of hearing instruments shall deliver to each person supplied with a hearing instrument a receipt which shall contain the licensee's or apprentice's signature and show his or her business street address and the number of his or her license or permit, together with specifications as to the make and model of the hearing instrument furnished and the full terms of sale clearly stated. If an instrument which is not new is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned," whichever is applicable, with terms of guarantee, if any.

(b) Such receipt shall bear in no smaller type than the smallest used in the body copy portion the following:

"The purchaser has been advised at the outset of his or her relationship with the hearing instrument apprentice, fitter, or dispenser that any examination(s) or representation(s) made by a licensed hearing instrument apprentice, fitter, or dispenser in connection with the fitting and selling of this hearing instrument(s) is not an examination, diagnosis or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as

medical opinion or advice."

(c) Any person engaging in the fitting and sale of hearing instruments shall ascertain whether a person under the age of 18 has been examined by a physician for his recommendation to be fitted with a hearing instrument within six months prior to the fitting. If such not be the case, no hearing instrument shall be sold to such person until such an examination is made.

**§ 34-14-11. Duties of board; review of appeals for exemption from certification; subpoenaing witness's testimony and records.**

Current through End of 2007 Regular Session.

(a) The board shall perform the following duties:

(1) Authorize all disbursements necessary to carry out the provisions of this chapter;

(2) Register persons who apply to the board who are qualified to engage in the fitting and sale of hearing instruments;

(3) Administer, coordinate, and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for licensure under this chapter, issue and renew licenses and permits under this chapter, and investigate allegations of violations of this chapter;

(4) Promulgate rules and regulations necessary to carry out the provisions of this chapter and to establish consumer protection provisions, provisions for prohibited practices, and requirements for businesses;

(5) Issue and renew a dispenser's license to sell and fit hearing instruments to any person who is duly licensed under the laws of this state as an audiologist; and

(6) Furnish a list of persons licensed under this chapter, upon request.

(b) The board shall be authorized to review individual appeals for exemption from required certification for a dispenser's license.

(c) The board may subpoena witness's testimony and records for any official hearing or proceeding of the board.

**§ 34-14-12. Prohibited acts and practices.**

Current through End of 2007 Regular Session.

No person shall:

(1) Sell, barter or offer to sell or barter a license or permit;

(2) Purchase or procure by barter a license or permit;

(3) Alter a license or permit;

(4) Use or attempt to use as valid a license or permit which has been fraudulently obtained, counterfeited or materially altered; or

(5) Willfully make a false statement in an application for license or apprentice permit or application for renewal of a license.

**§ 34-14-13. Chapter not applicable to certain persons and practices.**

Current through End of 2007 Regular Session.

This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments; provided, that such person or organization employing such person does not sell hearing instruments or accessories thereto.

**§ 34-14-14. Penalties.**

Current through End of 2007 Regular Session.

A violation of this chapter shall be punishable as a Class C misdemeanor.

**ARTICLE 2. BOARD OF HEARING INSTRUMENT DEALERS.**

**§ 34-14-30. Creation; composition; compensation.**

Current through End of 2007 Regular Session.

(a) There is established a Board of Hearing Instrument Dealers which shall administer this chapter.

(b) Members of the board shall be residents of the state and appointed by the Governor. The board shall consist of eight members as follows: Five licensees, one of whom may be a fitter, one physician who specializes in diseases of the ear, one audiologist, and one consumer member. The consumer member shall have the same powers as other board members, except that the consumer member shall have no voting powers in matters of issuing, suspending, or revoking licenses, and neither the consumer, nor his or her spouse shall be a hearing instrument fitter or dispenser. Each hearing instrument fitter or dispenser on the board shall have no less than three years of experience and shall hold a valid license as a hearing instrument fitter or dispenser, as provided under this chapter. No member of the board shall be from the same business or firm of another board member, and no member shall be the spouse or immediate family member of another board member.

(c) All members of such board shall be appointed by the Governor from a list of qualified persons nominated by the Alabama Society for Hearing Healthcare Providers. The term of office of each member shall be for four years. Before a member's term expires, the Governor shall appoint a successor to assume his or her duties upon the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the board shall annually designate one member to serve as chairman, another to serve as vice chairman, and such other officers it deems necessary. The vice chairman shall serve as the complaints chairman of the board. All board members serving on June 1, 1994, shall retain their membership on the board.

No member of the board who has served two or more full terms may be reappointed to the board until at least one year after the expiration of his or her most recent full term of office.

(d) Members of the board shall receive for each day actually engaged in the duties of the office a per diem amount of \$25, not to exceed the sum of \$1,000 per year, and reimbursement for traveling expenses as provided in Article 2 of Chapter 7 of Title 36, and other expenses, the remuneration and reimbursement to be paid from appropriations made for this purpose.

(e) The Governor may remove any member for neglect of duty, incompetency, or

unprofessional conduct. The board may employ, and at its pleasure discharge, an executive secretary and such officers and employees as may be necessary, and the board shall fix their compensation.

**§ 34-14-31. Attorney General to act as legal adviser.**

Current through End of 2007 Regular Session.

The Attorney General of the state shall act as legal adviser of the board and shall render such legal assistance as may be necessary in carrying out the provisions of this chapter.

**§ 34-14-32. Meetings.**

Current through End of 2007 Regular Session.

The board shall meet not less than once each year at a place, day and hour determined by the board. The board shall also meet at such other times and places as may be requested by the state board.

**§ 34-14-33. Disposition of receipts; account of board.**

Current through End of 2007 Regular Session.

(a) On or before the tenth day of each month, the board shall pay into the State Treasury all moneys received by it under this chapter during the preceding calendar month. The State Treasury shall credit the moneys to the Board of Hearing Instrument Dealers Account, which account is hereby created.

(b) The moneys in the State Board of Health Hearing Aid Account shall, on June 1, 1994, be transferred to the account of the Board of Hearing Instrument Dealers, and the board may use funds in the account for the purpose of paying the expenses of administering and enforcing the provisions of this chapter.

## **Board Members**



### **STATE OF ALABAMA HEARING INSTRUMENT DEALERS BOARD**

**400 South Union Street  
Suite 445  
Montgomery, Alabama 36130-3010  
(334) 242-1925**

#### **FAX MEMORANDUM**

**TO:** Tony Lindsey  
Sunset Information Current Board Members

**FROM:** Jeanne Stanfield

**DATE:** July 29, 2008

**RE:** List of current Board Members

The following is a list of current Board members.

Kaythia Stanton  
155 Misty Water Drive  
Columbiana, AL 35051  
Board Member - Childersburg, AL Appointed 6/30/05 Expires 12/31/08

Jo Ann Armstrong  
913 River Falls St  
Andalusia, AL 36420  
Board Member - Andalusia, AL Reappointed 7/14/08 Expires 12/31/11

Douglas Dellaccio  
3326 Altama Drive  
Vestavia Hills, AL 35216  
Board Member - Bessemer, AL Reappointed 6/30/05 Expires 12/31/08

Joyce Beckman  
9259 Segers Road  
Madison, AL 35736  
Board Member - Madison, AL Reappointed 7/14/08 Expires 12/31/11

Bruel Davis  
4632 Co. Rd 4421  
Brundidge, AL 36010  
Consumer Member Reappointed 7/14/08 Expires 12/31/11

Michelle Hames  
515 E. Tennessee St.  
Florence, AL  
Audiologist Member Appointed 7/14/08 Expires 12/31/11

Dr. Rick Love  
6912 Winton Blount Blvd.  
Montgomery, AL 36117-3555  
Physician Member

Appointed 7/14/07

Expires 12/31/10

~~Board Member, Vacant Seat to be nominated by Association.~~

*Jeanne Stanfield*  
*Executive Secretary*  
*HIDB -*

Timothy D. Toomey Appt 9/11/08 Expires 12/31/09  
204 Wentworth Dr  
Enterprise, AL 36330-4154  
(FAX - Hrng Instr Dlrs Bd 9/19/08)

## **RESPONSE TO SIGNIFICANT ITEMS**

**From:** [ABEDN@bellsouth.net](mailto:ABEDN@bellsouth.net)  
**To:** [Norris, John;](#)  
**Subject:** Re: Sunset significant items  
**Date:** Tuesday, September 16, 2008 10:38:31 AM

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----- Original message from "Norris, John" <John.Norris@examiners.alabama.gov>: -----

Jeannie,

Please respond to the attached letter. Contact me if you have any questions.

John Norris  
Director, Operational Division  
Examiners of Public Accounts  
334-242-9257

Dear Mr. Norris

The response to the attached significant items 1,2, # 3 remains as stated. The Alabama Board of Hearing Instrument Dealer plans to continue to submit changes to legislation in order to correct these requirements unless the Sunset Committee can be of assistance.

Thank you

Jeanne Stanfield



Executive Secretary  
Hearing Instrument Dealers  
242-1925





Ronald L. Jones  
Chief Examiner

*Mailing Address:*  
P.O. Box 302251  
Montgomery, AL 36130-2251

**State of Alabama**  
Department of  
**Examiners of Public Accounts**

Telephone (334) 242-9200  
FAX (334) 242-1775

*Location:*  
Gordon Persons Building  
50 North Ripley Street, Room 3201  
Montgomery, AL 36104-3833

September 16, 2008

Jeanne Stanfield  
Executive Secretary  
Board of Hearing Instrument Dealers  
400 South Union Street, Suite 445  
Montgomery, AL 36130

Dear Ms. Stanfield

Attached are items that will appear in our report to the Sunset Committee on the operations of the Board of Hearing Instrument Dealers. These items are provided to you at the direction of the Sunset Committee in order to obtain any further responses you wish to make for presentation to the committee. Please send your responses to me by September 26, if possible. Please respond by e-mail to [john.norris@examiners.alabama.gov](mailto:john.norris@examiners.alabama.gov).

Sincerely,

John E. Norris  
Director, Operational Division

## **SIGNIFICANT ITEMS**

No new significant items.

### **STATUS OF PRIOR FINDINGS AND SIGNIFICANT ITEMS**

1. **Prior Significant Item - The board is short of funds** - Board members are electing to waive their expenses for attending board meetings (reimbursement for travel and compensation) to reduce expense to the board. The fees that can be charged are set at specific amounts in the board's enabling statutes. The board plans to submit legislation that will allow the restructure of fees.

**Current Status** – According to the executive secretary, legislation was submitted in 2006 (SB 249) (HB 224) to allow the board to restructure the current fees in its statutes. However this process was unsuccessful. The bills passed in both committees but never progressed further.

In the 2007 fiscal year, receipts increased substantially in the categories of exam fees and duplicate license certificate fees. The executive secretary stated that she would not know if the increase would continue until completion of the 2008 fiscal year.

The executive secretary stated that the board would support an amendment to change language in various sections of its current statutes to eliminate specified dollar amounts regarding licensure fees, renewal fees, and all other fees and replace with language to read all fees as prescribed in the rules and regulations 445-x-1.03 (7) Licensure Fees. The executive secretary stated that this change would allow fees to be specified in rules and regulations and changed when necessary through the rulemaking process.

The executive secretary stated that the fees have been in effect for fourteen years (14 years) since 1994 when the Alabama Board of Hearing Instrument Dealers became an independent agency from the Health Dept.

The executive secretary stated that, "We have tried through Sunset Committee and Legislation to have specified dollar amounts removed from the law in order to adjust fees when absolutely necessary in order to maintain the licensing and regulatory board. When increase cost are passed on to this agency from outside source beyond our control, then there is a need to adjust our fees in order to self-sustain. We also need to include cost of services that cannot be charge due to our statutes."

2. **Prior Significant Item - Statutes that address administrative fines appear in conflict.** – The administrative fine against offending licenses in the *Code of Alabama 1975*, section 34-14-9 (b) is set at not more than \$1,000 per violation while the fine is set in the *Code of Alabama 1975*, Section 34-14-9 (c) is set at not more than \$500 per violation. The board plans to submit legislation to resolve this issue.

Section 34-14-9(b) provides that, "The board is hereby authorized to discipline its licensees and apprentices by the adoption and collection of administrative fines, not to exceed

\$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter.”

Section 34-14-9 (c) provides that, “Any person registered under this chapter may have his or her permit or license revoked or suspended by the board, be reprimanded by the board, or be administratively fined not more than five hundred dollars (\$500) per violation by the board for any of the following causes:” (A list of 8 causes, including 10 types of unethical conduct, follows)

**Current Status** – The condition remains. The executive secretary stated that the board submitted legislation to resolve this issue in 2006 (SB 249 and HB 224), but the legislation was unsuccessful.

3. **Prior Significant Item - Statutes name the board’s vice chairman as the complaints chairman, a condition that does not allow the board the flexibility in handling complaints that it desires.** - The *Code of Alabama, 1975*, Section 34-14-30 (c) states “The Vice-Chairman shall serve as the complaints chairman.” According the board’s executive secretary, the board wants to remove this requirement so the board can designate a complaints chairman. The board plans to submit legislation to remove the requirement.

**Current Status** – The condition remains. The executive secretary stated that the board submitted legislation to resolve this issue in 2006 (SB 249 and HB 224), but the legislation was unsuccessful.